

CROWN EMPLOYEES SYDNEY LIVING MUSEUMS (GARDENS - HORTICULTURE AND TRADES EMPLOYEES) AWARD 2016

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Review of Award pursuant to Section 19 of the *Industrial Relations Act* 1996.

(Case No. 2016/00007052)

Before Commissioner Stanton

2 August 2016

REVIEWED AWARD

Arrangement

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PART A

1. Title

This Award shall be known as the Crown Employees Sydney Living Museums (Gardens - Horticulture and Trades Employees) Award 2016.

2. Definitions

"Act" means the Government Sector Employment Act 2013.

"Association" means the Public Service Association and Professional Officers' Association Amalgamated Unions of New South Wales.

"Broad Banded role" means a role whose grading, skills and range of duties extends beyond those defined for a single level and will occur in Levels 2 to 11 as determined by the Director.

"Director" means the Director of the Sydney Living Museums.

"Skills" means the appropriate qualifications, relevant experience/demonstrated ability and completion of the training modules appropriate to each level or equivalent, as determined by the Director.

"Employee" means and includes all persons employed under the provisions of the Government Sector Employment Act 2013 as varied.

3. Salaries

The rates of pay for employees are set out in Part B - Monetary Rates of this Award and are set in accordance with the Crown Employees (Public Sector-Salaries 2016) Award and any variation or replacement award.

4. Conditions of Employment

All employees are employed under the Act and conditions of employment will be in accordance with the Act and Regulations, the Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009 and the Crown Employees (Public Sector - Salaries 2016) Award.

5. Classification Standards

5.1 For the purpose of this clause:

"Employee" means and includes employees as defined in clause 2 and special job creation and training program personnel.

"Supervision" means, in addition to normal supervisory responsibilities, the assessment, evaluation and training of employees and volunteers.

5.2 A role falling within the scope of this Award shall have assigned to it a classification level determined in accordance with:

- (a) the classification standards detailed below; and
- (b) where such a system has been implemented, the accredited job evaluation.

5.3 The following classification levels will apply:

Level 1

Roles established at this level are to be used to accommodate employees employed for limited periods of time on special training programs. An employee assigned to a role established at Level 1 of this Award will:

- (a) work under close direct supervision and therefore will not be required to use individual judgement in following direction; and
- (b) have as a minimum, basic communication skills and the ability required to:
 - (i) perform basic tasks, (such as digging and weeding) using basic hand tools or equipment (such as spades and picks) for which either no previous training or experience is required or for which no detailed on the job training will be required; and
 - (ii) communicate with supervisors and other employees.
- (c) be prepared to undertake appropriate introductory and non-technical training.

Level 2

An employee assigned to a role established at Level 2 of this Award will:

- (a) work under general supervision and therefore will not be required to exercise individual judgement in following direction; and
- (b) have completed the TAFE Horticultural Skills 1 technical and the introductory non-technical training modules, or be able to demonstrate equivalent prior learning, so that they have the basic communication skills and other skills and relevant experience required to:
 - (i) perform basic work processes (such as mowing, planting, trenching) using equipment requiring basic training (such as brush cutters, cement mixers, power tools); and
 - (ii) communicate with supervisors and other employees; and/or
 - (iii) communicate non-technical information to the public.

Level 3

An employee assigned to a role established at Level 3 of this Award will:

- (a) work under minimal supervision and therefore be required to exercise limited individual judgement in following instructions; and
- (b) have completed the TAFE Horticultural Skills 2 technical training modules and fundamental non-technical training modules, or be able to demonstrate equivalent prior learning and possess, if required, a current Class C driver's licence, so that they have the basic communication skills and other skills and relevant experience required to:
 - (i) perform work processes of limited complexity (such as framework, concrete finishing, bitumening, soil mixing, potting) using equipment of limited complexity (such as chainsaws, soil mixing and pasteurising equipment, tractors, vehicles up to two tonnes, ride-on mowers, street sweepers) requiring detailed training but not requiring special licences; and
 - (ii) communicate with supervisors and other employees; and/or
 - (iii) communicate non-technical information to the public.

Level 4

An employee assigned to a role established at Level 4 of this Award will:

- (a) work under minimal supervision and therefore be required to exercise independent judgement at a semi-trade level or in routine security or law enforcement procedures; and
- (b) have completed the TAFE Horticultural Skills 3 technical and fundamental non-technical training modules, or be able to demonstrate equivalent prior learning, and possess the special licences and basic communication skills and other skills and relevant experience required to:
 - (i) perform work processes at semi-trade level (such as construction, stone work, pesticide spraying, garden bed preparation); and/or
 - (ii) operate complex equipment requiring special licences or certificates (such as trucks over two tonnes, front-end loaders); and/or
 - (iii) perform routine security or law enforcement procedures (such as locking and unlocking of buildings, general ground patrol, cash escort); and
 - (iv) communicate with supervisors and other employees and to pass on instructions to apprentices and/or to communicate non-technical information to the public..

Level 5

An employee assigned to a role established at Level 5 of this Award will:

- (a) work under minimal supervision and therefore be required to exercise independent judgement at trade level, or have the ability to undertake management of a stores area, or in routine security or law enforcement procedures; and
- (b) have a recognised horticultural trades certificate or equivalent and have completed the transitional non-technical training modules, or be able to demonstrate equivalent prior learning and possess the relevant licences, or have demonstrated experience in stock control, purchasing procedures and management of government stores, so that they have the developed communication and interpretation skills and other skills and relevant experience required to:
 - (i) perform trade level horticultural duties; and/or
 - (ii) maintain security or law enforcement in low risk areas; and/or
 - (iii) manage a store of a park or garden; and/or
 - (iv) perform visitor service duties; and/or
 - (v) supervise apprentices and volunteers; and
 - (vi) communicate with supervisors and other employees; and/or
 - (vii) assist in conducting a guided tour; and/or
 - (viii) communicate semi-technical information to the public.

Level 6

The occupant of a role established at Level 6 of this Award will:

- (a) Work under minimal supervision and therefore be required to exercise independent judgement at an advanced trade level and exercise initiative with regard to matters of minor complexity; and
- (b) Have a recognised horticultural or carpentry trades certificate or equivalent and have completed the transitional non-technical training modules, or be able to demonstrate equivalent prior learning, so that they have the developed communication skills, interpretation skills and other skills and relevant experience required to:
 - (i) Perform advanced trade level horticultural duties (such as development of botanical collections including detailed plant recording and documentation, field collection); or
 - (ii) Implement conditions of entry and liaise with relevant outside bodies where the safety of people or property is at risk; and/or
 - (iii) Supervise apprentices, volunteers and/or other employees; and
 - (iv) Communicate with supervisors and other employees; and/or
 - (v) Conduct a guided tour; and/or
 - (vi) Communicate semi-technical information and specific property interpretation to the public.

Level 7

An employee assigned to a role established at Level 7 of this Award will:

- (a) work independently on assigned specialist work and/or lead a small work team on assigned work and therefore be required to exercise independent judgement and to be accountable for work performance; and
- (b) have a recognised horticultural trades certificate and have completed the intermediate non-technical training modules, or be able to demonstrate equivalent prior learning, so that they have the skills and relevant supervisory experience required to:
 - (i) manage a small specialist plant collection or work area (specialising in fields such as security or law enforcement procedures, interpretation, or recreation planning, management of a store of a large park or garden) as an individual or as the team leader of a small team of employees (normally less than 6 employees) supervising and training employees; and
 - (ii) be accountable for completion of work to agreed standards; and/or
 - (iii) solve technical problems of limited complexity; and
 - (iv) document and communicate technical data and information to other employees and/or the public;
 - (v) participate in the development of tours or talks in conjunction with other relevant employees;
 - (vi) present tours or talks to the public and/or specialist groups.

Level 8

An employee assigned to a role established at Level 8 of this Award will:

- (a) work independently on assigned specialist work and/or lead a work team on assigned work and therefore be required to exercise independent judgement and to be accountable for work performance; and
- (b) have a recognised horticultural trades certificate and have completed the intermediate non-technical training modules, or be able to demonstrate equivalent prior learning, or have demonstrated experience in running a store of a large park or garden, so that they have the skills and relevant supervisory experience required to:
 - (i) manage a specialist garden or work area (specialising in fields such as security or law enforcement, interpretation, or recreation planning, manage a store in a large park or garden) as an individual or as the leader of a team of employees (normally more than 5 employees) supervising and training employees; and
 - (ii) be accountable for completion of work to agreed standards and/or
 - (iii) solve technical problems of some complexity; and
 - (iv) develop and present tours or talks as a representative of the organisation; and
 - (v) document and communicate technical data and information to fellow employees and/or the public.

Level 9

An employee assigned to a role established at Level 9 of this Award will:

- (a) work independently on assigned specialist work programs or projects or manage a small number (normally up to four) of work teams; and
- (b) exercise independent judgement in areas of management and/or technical expertise; and
- (c) have a recognised horticultural trades certificate (or a recognised qualification such as interpretation or recreation planning or security) and have completed the advanced non-technical training modules, or be able to demonstrate equivalent prior learning, so that they have the high level of technical and/or organisational and project co-ordination and well developed supervisory skills and relevant experience required to:
 - (i) manage works programs or projects; and
 - (ii) supervise employees; and
 - (iii) be accountable for completion of work to agreed standards, time frames and budgets; and
 - (iv) provide advice on technical matters and/or communicate technical information to the public; and fellow employees; and.
 - (v) develop and present specialist tours, talks or programs for the public and/or for outside groups/organisations.

Level 10

An employee assigned to a role established at Level 10 of this Award will:

- (a) work independently on assigned specialist work programs or projects or manage several (normally up to five or more) work teams; and
- (b) exercise independent judgement in areas of management and/or technical expertise; and
- (c) have a recognised horticultural trades certificate or equivalent (or a recognised qualification such as interpretation or recreation planning or security) and have completed the advanced non-technical training modules, or be able to demonstrate equivalent prior learning, so that they have the high level technical, organisational and project co-ordination and well developed supervisory skills required to:
 - (i) manage works programs or projects; and
 - (ii) supervise employees; and
 - (iii) be accountable for completion of work of technical complexity to agreed standards, time frames and budgets; and
 - (iv) provide advice on technical matters and/or communicate technical information to the public, fellow employees and outside specialist bodies.

Level 11

An employee assigned to a role established at Level 11 of this Award will:

- (a) work independently developing and implementing specialist projects or programs and/or manage a number of specialists or work teams; and
- (b) exercise independent judgement in areas of management and/or technical expertise; and

- (c) have a recognised horticultural trades certificate or equivalent (or a recognised qualification, such as interpretation or recreation planning or security) and have completed the advanced non-technical training modules, or be able to demonstrate equivalent prior learning, so that they have the high level technical skills and knowledge and high level works organisation and management skills and relevant experience required to:
 - (i) manage major projects or programs, developing and co-ordinating works programs and schedules; and
 - (ii) supervise employees; and
 - (iii) be accountable for meeting agreed standards, time frames and budgets; and
 - (iv) provide advice on technical matters and/or communicate technical information to the public, peers, other employees and outside specialist bodies.

6. Progression

- 6.1 Appointment to a vacant role, other than progression through broad-banded roles, shall be by merit selection.
- 6.2 Progression through levels where there are broad-banded roles established within Levels 2 to 11, shall be subject to satisfactory conduct and performance and the employee acquiring the skills and demonstrating the ability to perform the tasks defined for the next level and where those tasks are required to be performed.
- 6.3 The assessment of the suitability of an employee to progress to the next level within an established broad banded role shall normally be undertaken one month prior to the anniversary of the employee's assignment to Year 2 salary rate of their current level. The employee may also make application for progression at any other time at the discretion of the Director. The initial assessment shall be made by the employee's supervisor and forwarded to the Director or another member of the Executive for approval.
- 6.4 Progression from Year 1 to Year 2 within levels shall be by way of an annual increment. It is subject to satisfactory conduct and performance, as certified by the employee's supervisor and approval by the Director or the Director's nominee. The assessment of the employee's suitability for incremental progression shall normally be undertaken one month prior to the anniversary of their assignment to their current level. The employee must be promptly notified in writing by the Director or the Director's nominee of any decision to defer payment of an increment.
- 6.5 An employee shall have the right of internal appeal to the Director on progression matters through the established grievance procedures as set out in Clause 7 - Appeals Mechanism.
- 6.6 Nothing in this clause shall preclude an employee from exercising their right of an external appeal to the NSW Industrial Relations Commission.

7. Appeals Mechanism

- 7.1 An employee of Sydney Living Museums shall have the right to appeal any decision made by their Agency in relation to their performance assessment review or in relation to promotion on merit from one level to another where this is available under the provision of this Award.
- 7.2 An employee shall submit a written submission outlining their case to the Director within twenty-eight (28) days of the decision being appealed.
- 7.3 The Director shall constitute an Appeals committee made up of one (1) management representative, one (1) relevant Public Service Association representative and one (1) peer who is acceptable to both Management and the Association.

- 7.4 The appeal shall be heard within twenty-eight (28) days of it being lodged and the recommendation of the committee shall be forwarded to the Director.
- 7.5 The decision of the Director shall be forwarded to the employee concerned within seven (7) days of the appeal being heard.
- 7.6 The appeals mechanism shall not cover matters that are dealt with by the NSW Industrial Relations Commission.

8. Grievance and Dispute Handling Procedures

- 8.1 The aim of this Procedure is to ensure that, during the life of this Award, industrial grievances or disputes are prevented, or resolved as quickly as possible, at the level at which they occur in the workplace. For the purpose of this Procedure, industrial grievances are distinguished from a grievance dealt with under public sector grievance handling procedure (e.g. complaints or discrimination).
- 8.2 In the first instance, the employee/employees will notify (in writing or otherwise) the immediate supervisor, or other appropriate person, as to the substance of the grievance/dispute, request a bilateral meeting to discuss it, and state the remedy sought.
- 8.3 Where the grievance or dispute involves confidential or other sensitive material (including issues of harassment or discrimination under the Anti-Discrimination Act 1977) that makes it impractical for the employee to advise their immediate manager the notification may occur to the next appropriate level of management, including where required, to the Director or delegate.
- 8.4 The immediate supervisor, or other appropriate employee shall convene a meeting in order to resolve the grievance/dispute within 48 hours (two (2) working days), or as soon as practicable, of the matter being brought to attention.
- 8.5 If the matter remains unresolved, the matter shall be further discussed by the employee/employees and, at their request, the appropriate union delegate, the immediate supervisor, the supervisor's manager, and a more senior management representative. This should take place within 48 hours of the completion of step 8.4
- 8.6 If the matter remains unresolved and the employee/employees is/are union members, it should be discussed/ negotiated between representatives of the State Branch of the union(s) concerned, and relevant senior management of the employer. These actions should take place as soon as it is apparent that the earlier discussions will not resolve the grievance/dispute. In addition, in the case of a grievance, if the matter has not been resolved at the conclusion of this stage of discussions, the employer must provide a written response to the grievance, including reasons for not implementing any proposed remedy.
- 8.7 A matter relating to the conditions of employment fixed by this Award may be submitted by one or the other of the parties when all other steps 8.2 to 8.5 above, have been exhausted, to the relevant industrial tribunal which may exercise its functions under the Industrial Relations Act 1996.
- 8.8 Where the issue in dispute relates to a change of work or management practice, the pre-existing practice shall be allowed to continue until the issue has been finally resolved. Neither party shall be prejudiced as to the final settlement by the continuance of work in accordance with this sub-clause.

9. Anti-Discrimination

- 9.1 It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the Industrial Relations Act 1996 to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- 9.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award the parties have obligations to take all reasonable steps to ensure that the operation of the

provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award, which by its terms or operation, has a direct or indirect discriminatory effect.

- 9.3 Under the Anti-Discrimination Act 1977 it is unlawful to victimise an employee because they have made or may make or have been involved in a complaint of unlawful discrimination or harassment.
- 9.4 Nothing in this clause is to be taken to affect:
- (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (b) offering or providing junior rates of pay to persons under 21 years of age;
 - (c) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the Anti-Discrimination Act 1977;
 - (d) a party to this award from pursuing matters of unlawful discrimination in any State or federal jurisdiction.
- 9.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by the legislation referred to in this clause.
- 9.6 Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- 9.7 Section 56(d) of the Anti-Discrimination Act 1977 provides:

"Nothing in the Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion."

10. Deduction of Union Membership Fees

- (a) The Association shall provide the Trust with a schedule setting out union fortnightly membership fees payable by members of the union in accordance with the Association's rules.
- (b) The Association shall advise the Trust of any change to the amount of fortnightly membership fees made under its rules. Any variation to the schedule of Association fortnightly membership fees payable shall be provided to the Trust at least one month in advance of the variation taking effect.
- (c) Subject to (a) and (b) above, the Trust shall deduct Association fortnightly membership fees from the pay of any employee who is a member of the Association in accordance with the Association's rules, provided that the employee has authorised the Trust to make such deductions.
- (d) Monies so deducted from employee's pay shall be forwarded regularly to the Association together with all necessary information to enable the Association to reconcile and credit subscriptions to employees' union membership accounts.
- (e) Unless other arrangements are agreed to by the Association and the Association, all union membership fees shall be deducted on a fortnightly basis.
- (f) Where an employee has already authorised the deduction of union membership fees from their pay prior to this clause taking effect, nothing in this clause shall be read as requiring the employee to make a fresh authorisation in order for such deductions to continue.

11. Consultative Committee

- 11.1 The Sydney Living Museums' Employee and Management Participation and Advisory Committee and the Joint Consultative Committee (JCC) shall be used to monitor the implementation of this Award.

- 11.2 The Employee and Management Participation and Advisory Committee consists of, amongst other employees and management representatives, a representative of senior management and the Association delegate.

12. Area, Incidence and Duration

- 12.1 This Award shall apply to Horticultural and Trades employees of the Sydney Living Museums in the Office of Environment and Heritage.
- 12.2 The changes made to the Award pursuant to the Award Review to give effect to s19 of the Industrial Relations Act and Principle 26 of the Principles for Review of Awards made by the Industrial Relations Commission of New South Wales on 28 April 1999 (310. IG 359) take effect on and from 2 August 2016.
- 12.3 Changes made to this Award subsequent to it being published on 26 October 2007 (364 I.G. 72) have been incorporated into this Award as part of the review.
- 12.4 The Award remains in force until varied or rescinded, the period for which it was made having already expired.

PART B

MONETARY RATES

Effective from the first pay period commencing on or after 1 July 2016.

Horticultural/Trades Officer	01.07.16 \$ Per Annum 2.5%
Level One	44,165
Level Two Year 1	49,039
Level Two Year thereafter	50,334
Level Three Year 1	52,136
Level Three Year thereafter	53,992
Level Four Year 1	55,970
Level Four Year thereafter	57,656
Level Five Year 1	59,695
Level Five Year thereafter	61,290
Level Six Year 1	63,008
Level Six Year thereafter	64,754
Level Seven Year 1	66,591
Level Seven Year thereafter	68,582
Level Eight Year 1	70,751
Level Eight Year thereafter	73,635
Level Nine Year 1	76,522
Level Nine Year thereafter	79,384
Level Ten Year 1	81,888
Level Ten Year thereafter	84,188
Level Eleven Year 1	91,123
Level Eleven Year thereafter	96,784

Apprentice Gardeners shall be paid a percentage of the rate of pay applicable to Level Five, year 1:

Year One	=	45%
Year Two	=	60%
Year Three	=	75%
Year Four	=	85%

J. D. STANTON, Commissioner

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